MONTANA LEGISLATIVE HISTORY

Chapter 140 19 83

Bill H 338 S _____ Original bill & history ✓ C

H. Committee on Business & Ind			S. Committee on Business & Ind		
Hearing Date(s)	1-25	✓ C	Hearing Date(s)	3-4	✓ C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

BOARD OF PHARMACY; AMENDING THE PROVISIONS ON PROFESSIONAL EDUCATION; CHANGING THE TERMS OF MEMBERS OF THE BOARD AND PROVIDING A TRANSITION TO THE LONGER TERM; ESTABLISHING QUALIFICATIONS FOR THE PUBLIC MEMBERS OF THE BOARD; CLARIFYING THE PROVISIONS ON WHAT CONSTITUTES A VIOLATION OF PHARMACY LAW RELATING TO DISCIPLINARY ACTION AGAINST PHARMACISTS; REMOVING THE REQUIREMENT FOR A REEXAMINATION FEE; AMENDING SECTIONS ...; AND REPEALING SECTIONS ....
BY REQUEST OF: THE BOARD OF PHARMACISTS

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON HUMAN SERVICES: 01/18/83
HEARING: 2/9/83
REPORT: 02/10/83, DO PASS, AS AMENDED
2ND READING: 02/12/83, DO PASS AYES: 90; NAYS: 4
3RD READING: 02/15/83, DO PASS AYES: 93; NAYS: 6

TRANSMITTED TO SENATE: 2/15/83
REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 02/16/83
HEARING: 3/11/83
REPORT: 03/11/83, BE CONCURRED IN
2ND READING: 03/14/83 AYES: 49; NAYS: 0
3RD READING: 03/16/83 AYES: 47; NAYS: 0
RETURNED TO HOUSE 3/16/83

TRANSMITTED TO GOVERNOR: 03/23/83
SIGNED: 03/28/83, CHAPTER 247

HB 338 -- FABREGA, METCALF, O'CONNELL, ET AL. -- TO PERMIT SUPPLEMENTARY LICENSEES UNDER THE CONSUMER LOAN ACT TO MAKE LOANS IN ANY AMOUNT; AMENDING SECTIONS ....

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/18/83
HEARING: 1/25/83
REPORT: 01/25/83, DO PASS
2ND READING: 01/27/83, DO PASS AYES: 93; NAYS: 1
3RD READING: 01/29/83, DO PASS AYES: 89; NAYS; 1

TRANSMITTED TO SENATE: 1/29/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/31/83
HEARING: 3/4/83
REPORT: 03/04/83, BE CONCURRED IN
2ND READING: 03/07/83 AYES: 47; NAYS: 1
3RD READING: 03/09/83 AYES: 41; NAYS: 8

RETURNED TO HOUSE: 03/9/83

TRANSMITTED TO GOVERNOR: 03/15/83
SIGNED: 3/18/83, CHAPTER 140

HB 339 -- FABREGA, PAVLOVICH, O'CONNELL, ET AL. -- TO PERMIT A CONSUMER LOAN LICENSEE TO SELL ITS BUSINESS AND ASSETS TO CERTAIN FINANCIAL INSTITUTIONS NOT LICENSED UNDER THE MONTANA CONSUMER LOAN ACT; AMENDING SECTION ....

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/18/83
HEARING: 1/25/83
REPORT: 01/25/83, DO PASS
2ND READING: 01/27/83, DO PASS AYES: 95; NAYS: 0

House BILL NO. 338

INTRODUCED BY ~~Hannah~~ Patricia McCall O'Donnell

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT SUPPLEMENTARY LICENSEES UNDER THE CONSUMER LOAN ACT TO MAKE LOANS IN ANY AMOUNT; AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-201, 32-5-301, 32-5-306, 32-5-402, AND 32-5-501, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 32-5-102, MCA, is amended to read:

"32-5-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Person" means individuals, partnerships, associations, corporations, and all legal entities in the loaning business.

(2) "License" means one or both of the licenses provided for by this chapter.

(3) "Licensee" means the person holding a license.

(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(5) "Consumer type loan business" means the business of making loans ~~of $25,000 or less, which amount is subject to change pursuant to the provisions of 32-5-104,~~ generally repayable in substantially equal installments."

Section 2. Section 32-5-103, MCA, is amended to read:

"32-5-103. Engaging in business of making loans restricted. (1) No person shall engage in the business of making loans or advances of money on credit in ~~amounts of $25,000 or less~~ any amount and contract for, charge, or receive directly or indirectly on or in connection with any such loan or advance any charges, whether for interest, compensation, consideration, or expense, which in the aggregate are greater than those provided by 31-1-107(1), except as provided in and authorized by this chapter. A person doing business under the authority of this state or the United States relating to banks, trust companies, savings or building and loan associations, credit unions, or a person engaged in business as a licensed pawnbroker or any person who shall extend credit in connection with the sale of a commodity shall not become a licensee under this chapter nor shall any of the provisions of this chapter apply to any such exempted person.

(2) The provisions of subsection (1) shall apply to any person who seeks to evade its applications by any device, subterfuge, or pretense whatsoever.

(3) Any contract of loan in the making or collection of which any act shall have been done which violates subsection (1) of this section shall be void, and the lender shall have no right to collect, receive, or retain any principal, interest, or charges whatsoever.

INTRODUCED BILL

HB 338

~~(4) The amount of $25,000 in subsection (1) is subject to change pursuant to the provisions of 32-5-104 on adjustment of dollar amounts.~~"

Section 3. Section 32-5-201, MCA, is amended to read:

"32-5-201. License application and fees -- supplementary license. (1) (a) A place of business operated under this chapter shall properly display on the premises a nontransferable and nonassignable license. The same person may obtain additional licenses upon compliance with this chapter as to each license.

(b) Application for a license shall be on a form prescribed and furnished by the department.

(c) A licensee may move his place of business from one place to another within a county without obtaining a new license, provided he obtains written permission from the department.

(d) With each application the applicant shall submit $50 as an investigation fee and $125 as a license fee. The license fee shall be returned to the applicant if the application is denied. The license year is the calendar year, and the license fee for any period less than 6 months is $62.50. A license remains in force until surrendered, suspended, or revoked.

(2) No licensee under the provisions of this chapter shall lend money in a total sum greater than $1,000 to any

borrower or to any borrower and spouse except under the following circumstances:

(a) When any person holding a license provided for in subsection (1) desires to make loans for any amount in excess of $1,000 ~~but not exceeding $25,000~~, the holder of such license may apply to the department for a supplementary license and pay therefor an additional license fee of $75 per calendar year or one-half of said sum for any period less than 6 months.

(b) The department shall grant, on application, a supplementary license to a holder of a license provided for in subsection (1).

(c) Section 32-5-204 shall be applicable as to time of payment of supplementary license fee and penalty for failure to pay the same.

(d) Provisions of 32-5-301 relating to refunds, fees, and charges and the other provisions of this chapter not inconsistent with this section shall be applicable to loans made under authority of a supplementary license.

(3) All moneys collected under the authority of this chapter shall be paid into the state treasury by the department.

(4) The ~~amounts~~ amount of $1,000 ~~and $25,000~~ in subsection (2) ~~are~~ is subject to change pursuant to the provisions of 32-5-104."

Section 4. Section 32-5-301, MCA, is amended to read:

"32-5-301. Charges, refunds, penalties, filing fees. (1) Every licensee hereunder may contract for and receive on any loan of money not exceeding $1,000 in principal amount:

(a) charges at rates not in excess of $20 per year per $100 on that part of the principal amount of the loan not exceeding $500;

(b) $16 per year per $100 on that part of the principal amount of the loan exceeding $500 but not exceeding $1,000.

(2) The holder of a supplementary license may contract for and receive charges at rates authorized for licensees in subsection (1) for the first $1,000 of the principal amount of any loan and may contract for and receive charges at rates not in excess of $12 per year per $100 on that part of the principal amount of any loan exceeding $1,000 but not exceeding $7,500.

(3) Charges in (1) and (2) shall be computed at the applicable rates on the full, original principal amount of the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that the loan is payable in installments. Said charges shall be added to the principal of the loan and shall not be discounted or deducted therefrom or paid or received at the time the loan is made. For the purpose of computing charges

for a fraction of a month, a day shall be considered one-thirtieth of a month.

(4) On loans of $90 or less a licensee may charge, in lieu of charges specified in (1) of this section, not in excess of $1 for each $5 of cash or credit advanced to the borrower up to the amount of $90. A period of at least 15 days must be allowed for the repayment of each $5 cash or credit advanced. Such charges cannot be assessed by any subterfuge or device on any loan over $90 or on any balance of $90 or less when the original loan was greater than $90.

(5) When any loan contract, new loan, renewal, or otherwise, is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges which shall be due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits principle as follows: the amount of the refund or credit shall be as great a proportion of the total charges originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined according to the payment schedule originally contracted for.

(6) If the contract so provides, the additional charge for any amount past due according to the original terms of

the contract, whether by reason of default or extension agreement, may be 5% of the amount past due, and said amount may be charged once and no more.

(7) (a) The licensee may include in the principal amount of any loan the actual fees paid a public official or agency of the state for filing, recording, or releasing any instrument securing the loan.

(b) The licensee may include in the principal amount of any loan bona fide charges related to real estate security and paid to third parties, including:

(i) fees or premiums for title examination, title insurance, or similar purposes, including survey;

(ii) fees for preparation of a deed, settlement statement, or other documents;

(iii) fees for notarizing deeds and other documents;

(iv) appraisal fees;

(v) fees for credit reports; and

(vi) fees paid to a trustee for release of a trust deed.

(8) No further or other charges shall be directly or indirectly contracted for or received by any licensee except those specifically authorized by this chapter. No licensee shall divide into separate parts any contract made for the purpose of or with the effect of obtaining charges in excess of those authorized by this chapter. All balances due to a

licensee from any person as a borrower or as an endorser, guarantor, or surety for any borrower or otherwise or due from any husband or wife, jointly or severally, shall be considered a part of any loan being made by a licensee to such person for the purpose of computing interest or charges. If any amount in excess of the charges permitted by this chapter is charged, contracted for, and received, except as the result of an accidental and bona fide error of computation, the licensee shall have no right to collect or receive any charges.

(9) On any loan of money exceeding $7,500 in principal amount, a licensee may not make charges as provided in subsections (1) and (2) but shall make charges in accordance with the provisions of this subsection through subsection (12).

(10) On any loan of money exceeding $7,500 ~~but not exceeding $25,000~~ in principal amount, a licensee may contract and receive charges at a rate not in excess of 2% per month on the principal amount as follows:

(a) Charges shall be computed on unpaid balances of the principal amount outstanding from time to time for the actual time outstanding. Each payment shall be applied first to accumulated charges and the remainder of the payment applied to the unpaid principal balance, except that if the amount of the payment is insufficient to pay the

accumulated charges, unpaid charges continue to accumulate to be paid from the proceeds of subsequent payments and are not added to the principal balance.

(b) Charges made under this subsection may not be payable in advance or compounded. However, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount payable under such new loan contract may include any unpaid charges which have accrued. The resulting loan contract is a new and separate loan transaction for all purposes. The principal balance of a prior loan on which charges have been made pursuant to subsections (1) and (2) is the balance due after refund or credit is given to the borrower pursuant to subsection (5).

(11) For purposes of computing charges for a fraction of a month, a day is considered one-thirtieth of a month.

(12) The provisions of subsections (5) and (6) do not apply to loans made under subsections (9) through (11).

(13) The amounts of $90, $500, $1,000, and $7,500~~, and $25,000~~ in subsections (1), (2), (4), (9), and (10) are subject to change pursuant to the provisions of 32-5-104 on adjustment of dollar amounts."

Section 9. Section 32-5-306, MCA, is amended to read:

"32-5-306. Insurance. (1) No insurance of any kind shall be written by a licensee or employee, affiliate, or

associate of the licensee, in connection with any loan except as hereinafter provided.

(2) Insurance permitted under the provisions of this section shall be obtained through an insurance company authorized to conduct such business in Montana by a duly licensed agent or agency of this state. Premiums shall not exceed those fixed by law or current applicable manual rates. Insurance written as authorized by this section may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee.

(3) When the principal amount of the loan exceeds $300 exclusive of the portion thereof attributable to insurance premiums and charges, the licensee may require a borrower to insure property offered as security against any substantial risk of loss, damage, or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan, whichever is smaller, and for the customary term approximating the term of the loan contract. It shall be optional with the borrower to obtain such insurance in an amount greater than the amount of the loan or for a longer term.

(4) Subject to the laws of this state, credit life insurance and credit disability insurance may be provided at the expense of the borrower and may be provided by a licensee upon the request of the borrower when the principal

amount of the loan exceeds $300, exclusive of the portion thereof attributable to insurance premiums and charges. ~~If any loan shall include amounts advanced for insurance premiums and charges, such loan shall not in any event exceed $25,000.~~

(5) The insurance authorized by this section may be sold, obtained, or provided by or through a licensee, and the premium or identifiable charge for the insurance may be included in the principal amount of the loan; provided, however, that no licensee shall require a borrower to purchase such insurance from such licensee or from any particular agent, broker, or insurance company as a condition precedent for the obtaining of a loan. Any gain or advantage to the licensee or any employee, affiliate, or associate of the licensee from the sale, provision, or obtaining of insurance as authorized by this section shall not be deemed to be additional charges or a violation of this chapter.

(6) A licensee shall not require insurance under this section until any existing insurance of the same type has expired or has been canceled and the unearned portion of the premium for the canceled insurance has been rebated to the borrower.

(7) The ~~amounts~~ amount of $300 ~~and $25,000~~ in subsections (3) and (4) ~~are~~ is subject to change pursuant to

32-5-104 on adjustment of dollar amounts."

Section 6. Section 32-5-402, MCA, is amended to read:

"32-5-402. Investigations. ~~(1)~~ The department may at any time investigate any transaction with borrowers and may examine the books, accounts, and records in this state to discover violations of this chapter by:

~~(a)~~(1) a licensee; or

~~(b) a person who advertises for, solicits, or holds himself out as willing to make loans in amounts of $25,000 or less; or~~

~~(c)~~(2) a person whom the department has reason to believe is violating or is about to violate this chapter.

~~(2) The amount of $25,000 in subsection (1) is subject to change pursuant to the provisions of 32-5-104 on adjustment of dollar amounts.~~"

Section 7. Section 32-5-501, MCA, is amended to read:

"32-5-501. Open-end loans. (1) A holder of a supplementary license may make open-end loans ~~up to the maximum amount permitted for other loans under this chapter~~ and may contract for and receive charges at a rate not in excess of the rate set forth in 32-5-301(10) on unpaid balances outstanding from time to time for the actual time outstanding.

(2) A holder of a supplementary license may not compound charges by adding any unpaid charges authorized by

this section to the unpaid principal balance of the borrower's account; however, the unpaid principal balance may include the fees paid to third parties as authorized by 32-5-504 and by 32-5-301(7)."

-End-

STATUS SHEET

BUSINESS & INDUSTRY COMMITTEE

48 Legislature

Bill No.	Subject matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 253	TO REVISE THE PROCEDURE FOR ACQUIRING INFO ON LOCATION OF UNDERGROUND FACILITIES	1-17	Vinger	1-24	Do Pass Amended	1-24
HB 267	FEE FOR TRANSFER OF EQUITY INCIDENT TO RETAIL SALE:	1-17	Kitselman	1-26	Do Pass	1-26
HB 290	INCLUDING WHOLESALE PETRO DISTRIBUTORS UNDER THE DEFINITION OF DISTRIBUTORS	1-18	SEIFERT	1-26	Tabled 1-27 Discussed 2-7 & 2-8 Do Pass Amended	2-10
HB 338	PERMIT SUPPLEMENTARY LICENSEES UNDER THE CONSUMER LOAN ACT TO MAKE LOANS IN ANY AMOUNT	1-18	Fabrega	1-25	Do Pass	1-25
HB 339	PERMIT CONSUMER LOAN LICENSEE TO SELL ITS BUSINESS TO INSTITUTIONS NOT LICENSED IN MONT. CONSUMER LOAN ACT	1-18	Fabrega	1-25	Do Pass	1-25

Form CS-32

the loan as if it were made on an actuarial basis. Rep. Metcalf: Would they net out getting a little bit more or paying a little bit more? Mr. Loendorf: They would get the same as if it had been made on an actuarial basis. Rep. Fabrega: When you pre-pay early, you actually pay less.
REP. HARPER: What I'm worried about is if you can figure them down to thousandths and you've got the word "may" in there; if he is to benefit he'll round it and if he doesn't, he won't round it. Do you have any objection to being more specific with that? Mr. Leondorf: None at all.
REP. METCALF: When you say the actuarial method of computing... would that be the same thing as simple interest? Mr. Leondorf: Yes.

HOUSE BILL 338

REP. JAY FABREGA, District 44, sponsor, opened by saying this bill amends the Montana Consumer Loan Act to remove the ceiling of $25,000 on loans made under the applicable laws and to allow holders of supplementary licenses to make open-end loans of any amount. He said if someone needs $27,000 they have to get $25,000 from one company and the other $2,000 from another. The $25,000 limit seems to serve no purpose, he said.

PROPONENTS:

JERRY LEONDORF, Montana Consumer Finance Association, said each Legislature they have to ask that the limit be raised. He continued that they see no reason for a limit and we should go with what is going on nationally.

OPPONENTS: none

QUESTIONS:

REP. SCHULTZ: In a certain situation, would someone have a 24 percent interest put on them? Mr. Leondorf: The highest consumer loan in this town is at 19 percent, but that could go to 24 percent.

HOUSE BILL 339

REP. JAY FABREGA, District 44, sponsor, opened by saying this bill will allow licensees to sell their business and assets to a financial institution not licensed under that act but regulated by the state or federal government.

JERRY LEONDORF, Montana Consumer Finance Association, said finance companies have decreased in this state from 130 to approximately 32. There are not many buyers left. The consumer finance companies lost money in this state in 1981 and I suspect they will have lost in 1982, he said. This bill would open up a new group of buyers.

OPPONENTS: none

QUESTIONS: none

EXECUTIVE SESSION:

REP. FAGG made the motion that HOUSE BILL 339 DO PASS.
Question:
The motion that HOUSE BILL 339 DO PASS carried unanimously with Rep. Ellison abstaining.

REP. JENSEN made the motion that HOUSE BILL 338 DO PASS.
Question:
The motion carried by unanimous vote with Rep. Ellison abstaining.

HOUSE BILL 244:
REP. FABREGA: I suggest that we give our legal council a chance to look over the amendment and come up with the proper language.
REP. HANSEN: Jay, there is no ceiling made on the amount of the loan only on the 61 months? Rep. Fabrega: That's right.
REP. METCALF: If rounding the annual percentage rate to the nearest onehalf of one percent wasn't included, what method would be used? Mr. Leondorf: They wouldn't round it. They would use the normal procedure of going to the fourth decimal point. I would suggest that you strike that line and let them do it the way they normally would.
REP. HARPER: I move that we delete the two lines from the amendment on rounding out annual percentage rates.
Question: The motion carried unanimously.
REP. HARPER: I move the amendment with whatever Paul can figure out language-wise.
REP. METCALF: Mr. Leondorf: Is there a reason why there is different language in the two paragraphs? Mr. Leondorf: They can be made uniform.
Question: The motion carried unanimously.
REP. HARPER: I move HOUSE BILL 244 DO PASS AS AMENDED.
Question: The motion carried unanimously with Rep. Ellison abstaining.

HOUSE BILL 213

REP. METCALF: We need to defin "prospective buyer" to tighten this bill up. Rep. Kitselman: If they have placed earnest money down that should clarify. Rep. Hansen: I think there should be something to protect the client and the agent from full-time lookers. The agent has the ability to sort them out. Rep. Fabrega: "Prior to signing a buy and sell agreement" should work.

STANDING COMMITTEE REPORT

January 25 19 83

MR. Speaker

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE Bill No. ~~328~~ 338

first reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT SUPPLEMENTARY LICENSEES UNDER THE CONSUMER LOAN ACT TO MAKE LOANS IN ANY AMOUNT; AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-201, 32-5-301, 32-5-306, 32-5-402, AND 32-5-501, MCA."

HOUSE 328

Respectfully report as follows: That Bill No.

DO PASS

STATE PUB. CO.
Helena, Mont.

Chairman.

COMMITTEE SECRETARY

VISITORS' REGISTER

HOUSE B+I COMMITTEE

BILL 338 Date 1-25

SPONSOR Fabrega

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Jerry Loendorf	Helena	MCFO	✓	
DENNIS I GREEN	KALISPELL	MONTANA CONSUMER FINANCE ASS. MCFA / Budget Finance	✓	
Dave S Brooke	Conrad	Montana Consumer Finance Clerk	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

48th LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 244	1-31-83	3-4-83	3-4-83				3-4-83		
HB 253	1-29-83	2-11-83	2-11-83				2-11-83		
HB 267	2-1-83	3-9-83	3-9-83					3-9-83	
HB 290	2-16-83	~~3-18-83~~ 3-19-83	3-19-83						3-19-83
HB 338	1-31-83	3-4-83	3-4-83				3-4-83		
HB 339	1-31-83	3-4-83	3-4-83				3-4-83		
HB 347	1-29-83	2-4-83	2-4-83					2-4-83	
RETURNED HB 347	2-7-83	2-7-83 2-8-83	2-8-83					2-8-83	
HB 358	2-14-83	3-19-83	3-19-83				3-19-83		
HB 363	2-8-83	3-8-83	3-8-83					3-8-83	
HB 364	2-8-83	3-8-83	3-8-83					3-8-83	
HB 371	3-2-83	3-22-83	3-22-83				3-22-83		
HB 445	3-1-83		3-3-83	S E N T T O		P U B L I C H E A	L T H		
HB 451	3-2-83	~~3-16-83~~ 3-18-83	3-18-83						3-18-83
HB 464	2-8-83	3-14-83	3-14-83				3-14-83		
RETURNED HB 464	3-16-83	3-21-83	3-21-83						3-21-83

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 4, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on March 4, 1983, at 10:07 a.m., in Room 404, State Capitol.

ROLL CALL: All members were present with the exception of Senator Regan who was excused.

CONSIDERATION OF HOUSE BILL 339: An act to permit a consumer loan licensee to sell its business and assets to certain financial institutions not licensed under the Montana Consumer Loan Act.

In the absence of Representative Jay Fabrega, Senator Chris Christiaens stated consumer finance companies have been buying each other out. There were 130 now there are only 32 in the State. An owner wishing to sell his business today does not have any prospective buyers because of that. They have been losing money steadily. They are regulated and supervised by the Federal and State governments. There is great merit for the passage of this bill.

PROPONENTS TO HOUSE BILL 339: Jerry Loendorf representing Montana Consumer Financing Association, stated on page 1, line 20, there are provisions that banks, trust companies, etc., shall not be consumer loan licensees. That raises the question if they can buy the assets. There has been a decline in the number of consumer loan companies. They are now down to 28.

There were no further proponents and no opponents.
The hearing was closed on House Bill 339.

ACTION ON HOUSE BILL 339: Senator Dover made the motion that House Bill 339 Be Concurred In. Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, with the exception of Senator Regan who was excused, that HOUSE BILL 339 BE CONCURRED IN.

CONSIDERATION OF HOUSE BILL 338: An act to permit supplementary licensees under the Consumer Loan Act to make loans in any amount.

Senator Chris Christiaens presented this bill. He stated this was a companion bill to House Bill 339. This bill will remove the loan ceilings for Consumer Finance Companies. They are allowed to lend $25,000 to a customer. Over the years the ceiling was $1,000 and just about every session it has been necessary for the companies to get that ceiling raised. It seems $25,000 is no longer an adequate figure because of home improvement loans, large truck loans, mobile home loans and undeveloped land loans. For this reason they are asking for the removal of the ceiling. The usury limits have been excluded now and other states do not have a loan ceiling on Consumer Finance Companies.

PROPONENTS TO HOUSE BILL 338: Jerry Loendorf representing Montana Consumer Financing Association, stated he has represented this group

since 1973. They have come in from time to time asking that the loan ceiling be increased. They are now asking for the removal of the ceiling because 1) there is no reason for having a ceiling 2) no other states have it and they have had it for a long time with no repercussions 3) whenever you have a ceiling you have to raise it and 4) when a lender wants more than $25,000 and the Consumer Loan Company is the only one that will loan him the money, he often needs to go to two lenders. It serves no useful purpose.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Dover stated there are more things involved than just raising the capacity. On page 11 there must be some reason why they did not want anymore than that on insurance premiums. Mr. Loendorf stated no, supposing you are borrowing money, you want life insurance and you want to borrow the premium at the same time. The loan would include the amount advanced for the loan premiums.

Senator Dover stated on page 12, lines 8, 9, & 10, it states $25,000 or less you are not supposed to advertise your services. Mr. Loendorf stated that he should read the entire section. You could not advertise unless you had a license. This is a prohibition against advertising or making loans of $25,000 or less if you are not licensed. If you are licensed you can advertise that fact.

Senator Dover asked why don't you want that now? Mr. Loendorf stated there is no real difference now between a Consumer Loan Company and everyone else. The fact that you deregulated rates allows other financial institutions to enter into this area without any problems.

Senator Boylan asked is it true that you could buy a bank? Looks like it could work both ways. Mr. Loendorf stated no, a Consumer Loan Company could not buy out a bank. Bank holding companies buy both banks and consumer loan companies. We would not be looking for authority to buy out banks.

Senator Boylan stated he has problems of shuffling people around.

Senator Gage stated banks are restricted percentagewise to amounts of loans made to an individual. A Consumer Loan Company then could possibly have all their loans with one individual. Mr. Loendorf stated the banks are restricted to public funds. There is no restriction on risking your own money. The bank has restrictions on the amount of money they have to loan to any one person.

Senator Boylan stated at one point in time we set up these for a reason. He has some problems with it. He does not understand the financial institutions that much. He is wondering if they are taking some things away like accessibility of the people to get financing. Mr. Loendorf stated he does not think so. If banks turn a customer down they usually ask them to try the finance companies.

Senator Goodover stated it seems like we have had these every session. There has not been any repercussions.

The hearing was closed on House Bill 338.

ACTION ON HOUSE BILL 338: Senator Goodover made the motion that House Bill 338 Be Concurred In. Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, with the exception of Senator Regan who was excused that HOUSE BILL 338 BE CONCURRED IN.

CONSIDERATION OF HOUSE BILL 244: An act limiting the application of the rule of 78ths method of computing interest and refunds on prepayment to loans and retail installment contracts made for a time period of not more than 61 months; providing for refund or credit on prepayment on loans or contracts, exceeding 61 months; and providing an immediate effective date and an applicability clause.

Senator Chris Christiaens also presented this bill to the committee. He stated this bill has been requested primarily by the mobile home industry in which you can be purchasing a home for $25 - $30,000 or more. Under the rule of 78 there has been instances where with a credit life policy when a death has occurred under age 65, the consumer has ended up owing more than what they originally financed. This would also include consumer purchases from other states. The only time it causes a problem is with the larger loans and longer terms. There is a great need for this bill.

PROPONENTS TO HOUSE BILL 244: Ed Sheehy, Jr., Montana Manufactured Housing Association, stated we are here in support of this bill because if someone prepays a mobile home loan they are being penalized. We do not want to stop people from prepaying loans and by doing that we can sell more mobile homes.

Jerry Loendorf, representing Montana Consumer Financing Associations, stated they would support this bill. What has happened in the past as the prices of those articles went up if you extended those ten years or more and they wanted to pay off early they can end up owing more than what they originally started out with. It does not work when you talk about long term loans.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Fuller asked what does 78 mean? Dennis Green stated 78th is nothing more than a calculated factor of months. If you total 1 through 12 that totals up to 78.

ACTION ON HOUSE BILL 244: Senator Lee made the motion that House Bill 244 Be Concurred In. Senator Dover seconded the motion.

The Committee voted unanimously, by voice vote, with the exception of Senator Regan that HOUSE BILL 244 BE CONCURRED IN. Senator Christiaens will carry these three bills on the floor.

ADJOURN: There being no further business, the meeting adjourned at 10:30 a.m.

Allen C. Kolstad

ALLEN C. KOLSTAD, CHAIRMAN

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

48th LEGISLATIVE SESSION -- 1983 DATE 3-4-83

NAME	PRESENT	ABSENT	EXCUSED
PAUL F. BOYLAN	✓		
B. F. CHRIS CHRISTIAENS	✓		
HAROLD L. DOVER	✓		
DAVID FULLER	✓		
DELWYN GAGE	✓		
PAT M. GOODOVER	✓		
GARY P. LEE, VICE CHAIRMAN	✓		
PAT REGAN			✓
PAT M. SEVERSON	✓		
ALLEN C. KOLSTAD, CHAIRMAN	✓		

STANDING COMMITTEE REPORT

March 4 1983

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 338

FABREGA (CHRISTIAENS)

Respectfully report as follows: That HOUSE Bill No. 338

BE CONCURRED IN

~~DO PASS~~

ALLEN C. KOLSTAD, Chairman.

AC

STATE PUB. CO.
Helena, Mont.

DATE _____

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Joe H. Irwin	Montana Consumer Finance Assn	338 339 241	X	
Doug W. De Haan	Beneficial Mgmt. Corp.	"	X	
Paul S. Brooks	" "	"	X	
Dennis L. Green	Budget Finance and Montana Consum Finance Asso.	338 339	X	
Jerry Lalonde	Mt. Consumer Finance Assn	H 338, H 339, H 241	✓	
Jim Todd	Household Finance Corp	338 339 241	✓	
Ed Kheel	Mt Manufactured Housing Assn	244	✓	

(Please leave prepared statement with Secretary)